

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS

3 UNITED STATES OF AMERICA, )  
4 )  
5 ) Plaintiff )  
6 ) No. 1:22-cr-10026-RWZ-3  
7 vs. )  
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11 BEFORE THE HONORABLE RYA W. ZOBEL  
12 UNITED STATES DISTRICT JUDGE  
13 SENTENCING

14  
15 John Joseph Moakley United States Courthouse  
16 Courtroom No. 12  
17 One Courthouse Way  
18 Boston, Massachusetts 02210

19 June 29, 2022  
20 2:02 p.m.

21 Kristin M. Kelley, RPR, CRR  
22 Official Court Reporter  
23 John Joseph Moakley United States Courthouse  
24 One Courthouse Way, Room 3209  
25 Boston, Massachusetts 02210  
E-mail: kmob929@gmail.com

Mechanical Steno - Computer-Aided Transcript

1 APPEARANCES:

2  
3 David M. Holcomb  
4 United States Attorney's Office MA  
5 1 Courthouse Way  
6 Suite 9200  
7 Boston, MA 02210  
8 617-756-9043  
9 David.Holcomb@usdoj.gov  
10 for Plaintiff.

11  
12  
13 Jennifer L. Chunias  
14 Dylan Schweers  
15 Goodwin Procter, LLP  
16 100 Northern Avenue  
17 Boston, MA 02210  
18 617-570-8239  
19 Jchunias@goodwinprocter.com  
20 for Defendant.

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1 P R O C E E D I N G S

2 THE CLERK: All rise.

3 (The Honorable Court entered.)

4 Please be seated.

5 THE CLERK: This is the United States versus John  
6 Younis. It's Criminal No. 22-10026.

7 Can I ask counsel please to identify themselves for  
8 the record.

9 MR. HOLCOMB: Good afternoon, your Honor. David  
02:02 10 Holcomb for the United States.

11 THE COURT: Hold on one second. The government  
12 doesn't appear until page 3 of the document.

13 MR. HOLCOMB: What a shame.

14 MS. CHUNIAS: Good afternoon, your Honor. Jennifer  
15 Chunias on behalf of Mr. Younis.

16 THE COURT: Sorry?

17 MS. CHUNIAS: Jennifer Chunias, from Goodwin Procter,  
18 and Dylan Schweers, Goodwin Procter, on behalf of defendant  
19 John Younis.

02:03 20 THE COURT: Does the government wish to be heard?  
21 They had an objection to paragraph 66.

22 MR. HOLCOMB: The government doesn't need to be heard.

23 THE COURT: My inclination is to overrule it because I  
24 don't think it's necessary.

25 MR. HOLCOMB: I agree. Thank you, your Honor.

1 THE COURT: I think that also deals with one of the  
2 defendant's objections. Do you wish to be heard as to any of  
3 them?

4 MS. CHUNIAS: No, your Honor.

5 THE COURT: I thought that Probation did such a good  
6 job that I was going to overrule all of them.

7 MS. CHUNIAS: That's fine. Thank you, your Honor.

8 THE COURT: I think that's okay.

9 MS. CHUNIAS: That's appropriate.

02:04 10 THE COURT: All right. So what we end up then is with  
11 an ultimate conclusion that the guideline provisions call for a  
12 12 to 18 months prison sentence, supervised release of two to  
13 five years, and then a fine of \$5,500, up to five million  
14 dollars, no restitution, I'm not exactly sure I understand  
15 that, and a Special Assessment of \$200, which is mandatory.

16 I wish to talk about the fine now because I'm not sure  
17 what has happened from either brief or the Probation report,  
18 which also relies on the briefs. Has there been a fine and has  
19 it been paid or have the parties agreed that there is a fine  
02:05 20 payable that has been paid?

21 MR. HOLCOMB: Your Honor, the government has filed a  
22 motion --

23 THE COURT: Can you please sit down and speak into the  
24 microphone. Thank you.

25 MR. HOLCOMB: Your Honor, the government has filed a

1 motion for order of forfeiture which would account for the  
2 profits that Mr. Younis personally gained --

3 THE COURT: Is the microphone on, Lisa?

4 THE CLERK: Yes, they are.

5 MR. HOLCOMB: Can you hear me better now?

6 THE COURT: Yes.

7 MR. HOLCOMB: The government has filed a motion for an  
8 order of forfeiture, which would account for Mr. Younis's  
9 profits, personal profits, from the insider trading scheme.

02:06 10 The government would not recommend a fine. As your Honor may  
11 be aware, there's a parallel SEC case that is being resolved.  
12 So I believe the parties have discussed, and our recommendation  
13 would be for the remaining fines to be handled in that parallel  
14 case. As far as a money order, it's the government's motion  
15 for an order of forfeiture that would be relevant to today.

16 THE COURT: So there was an agreed amount of \$51,725  
17 that was to be paid, correct?

18 MR. HOLCOMB: Under the plea agreement, correct. Yes,  
19 your Honor.

02:06 20 THE COURT: That amount has not yet been paid,  
21 correct?

22 MR. HOLCOMB: Correct.

23 THE COURT: It has been paid?

24 MR. HOLCOMB: It has not been.

25 THE COURT: Has not been. I think that the plea

1 agreement called for forfeiture.

2 MR. HOLCOMB: That's correct, your Honor.

3 THE COURT: What?

4 MR. HOLCOMB: That's correct.

5 THE COURT: Do you want this on the judgment as well?

6 MR. HOLCOMB: I would request that, yes.

7 THE COURT: So what you're looking for is a payment of  
8 the 51,000 plus dollars as forfeiture.

9 MR. HOLCOMB: Correct, your Honor.

02:07 10 THE COURT: In addition to that, you're looking for a  
11 fine.

12 MR. HOLCOMB: No, your Honor. I would recommend that  
13 the fine be addressed in the parallel case.

14 THE COURT: It's the government's request for  
15 financial punishment, if you will, and that's the extent of it?

16 MR. HOLCOMB: Correct.

17 THE COURT: What's the defendant's position?

18 MS. CHUNIAS: Our position is consistent with that.

19 THE COURT: You can sit too.

02:07 20 MS. CHUNIAS: Which is consistent of paragraph 6 of  
21 the plea agreement. That's our understanding. Mr. Younis is  
22 prepared to pay the forfeiture amount immediately. What our  
23 understanding is, the government's pending motion would need to  
24 be entered and then he'll pay the forfeiture amount here.

25 As the government said, there's a parallel SEC matter

1 that Mr. Younis also has entered into a consent order there.  
2 We anticipate a financial component there once this Court  
3 enters its judgment.

4 THE COURT: So the long and the short of it is the  
5 parties agree that he is to pay an amount of 51,000 plus  
6 dollars as forfeiture.

7 MS. CHUNIAS: Correct, your Honor.

8 MR. HOLCOMB: Yes, your Honor.

9 THE COURT: And no other payment?

02:08 10 MS. CHUNIAS: That's correct.

11 MR. HOLCOMB: Correct.

12 THE COURT: That took a lot of paper to get there.

13 Mr. Mills, are you with me still?

14 PROBATION: Yes, your Honor. We were discussing this  
15 at some length this morning because neither of us understood  
16 what the parties' positions were.

17 MS. CHUNIAS: We certainly could have done a better  
18 job then. My apologies.

19 THE COURT: I will hear the government's  
02:09 20 recommendation.

21 MR. HOLCOMB: Thank you, your Honor.

22 In terms of the sentence, what the government is  
23 recommending is a split sentence of --

24 THE COURT: You will need to keep your voice up.

25 MR. HOLCOMB: I'll try my best. The government is

1 recommending a split sentence of six months incarceration and  
2 six months home detention, which is a sentence that would  
3 satisfy --

4 THE COURT: The first one was six months of what?

5 MR. HOLCOMB: Incarceration.

6 THE COURT: Incarceration.

7 MR. HOLCOMB: Correct.

8 THE COURT: Six months jail. And then six months home  
9 detention?

02:09 10 MR. HOLCOMB: That's correct, your Honor. I'm going  
11 to try this microphone and see if it's any better. How's that?

12 THE COURT: It works.

13 MR. HOLCOMB: Your Honor, in addition to that  
14 sentence, as noted, we would move for that order of restitution  
15 and recommend 24 months of supervised release following the  
16 sentence.

17 THE COURT: In addition to the six months, what other  
18 punishment is there?

19 MR. HOLCOMB: 24 months supervised release.

02:10 20 THE COURT: Sorry?

21 MR. HOLCOMB: 24 months of supervised release.

22 Your Honor, may I proceed?

23 THE COURT: This is not exactly what you asked for in  
24 your brief.

25 MR. HOLCOMB: I apologize. Your Honor. That is



1 correct. Under the plea agreement, we agreed on recommendation  
2 by the government, I believe, 24 months of supervised release  
3 rather than 36 months. I apologize. The reason we're asking  
4 for incarceration and home detention is because the  
5 government's chief concern in this case is the sentence be  
6 adequate to deter others from engaging in the type of insider  
7 trading that Mr. Younis engaged in which, for today's purposes,  
8 I'll call friends and family insider trading.

9 The facts of this case are relatively simple. They're  
02:11 10 an example of a common story, of friends and family illegally  
11 trading off of information acquired from companies that they  
12 work for.

13 Mr. Younis was lifelong friends with David Forte and  
14 Gregory Manning. They grew up together in Needham. They went  
15 on vacations together as adults. David Forte had a relative  
16 who worked for a public company. When David Forte learned from  
17 his relative that the company planned to acquire another public  
18 company, called Linear, David Forte tipped Mr. Younis and  
19 Gregory Manning to buy Linear Securities.

02:12 20 Mr. Younis, who at the time had only \$500 in his  
21 brokerage account and hadn't traded all year, put approximately  
22 \$60,000 into his brokerage account after speaking with Forte  
23 and bought Linear call options and stock. Almost \$5,000 of  
24 that investment went to options that would have been valueless  
25 had Linear's share price not increased before the options

1 expired. Approximately \$53,000 was invested in stock just a  
2 couple of days later.

3 Only days after that Linear's share price leapt upon  
4 the news that Analog, the company that Forte's relative worked  
5 for, was acquiring Linear. Mr. Younis sold all of his Linear  
6 call options and stock the next day for a profit of \$52,000  
7 approximately, which is almost double his initial investment,  
8 in a single securities issuer over the course of less than a  
9 week.

02:13 10 As I mentioned, the government's chief concern is  
11 general deterrence. I don't have specific reason to believe  
12 that Mr. Younis will fall into additional stock tips or be  
13 presented with many additional opportunities to trade public  
14 securities based on inside information.

15 I do think it's notable though that not only did  
16 Mr. Younis not hesitate to trade on the inside information that  
17 he got from David Forte, he also used this information in  
18 another way. He tipped a business associate to buy Linear  
19 stock. This was someone who gave Mr. Younis's company  
02:14 20 business. Mr. Younis had valuable information about Linear.  
21 He tipped his customer to buy Linear and Mr. Younis's customer  
22 made a quick \$11,000 profit based on the tip too.

23 I think this goes to the more important concern that  
24 the government has in this kind of a case. It is common for  
25 friends and relatives to pass inside information between each

1 other and to trade on it, but it is very difficult to police  
2 this activity. Why is it so hard to police stock tipping  
3 between family members and friends? In the financial industry,  
4 trading by financial professionals is strictly regulated and  
5 policed. It's understood that these people come into inside  
6 information every day and it's understood that there is a risk  
7 that they may trade on material nonpublic information. In the  
8 case of family and friends, many people who worked for public  
9 companies can obtain information. That information can be  
02:15 10 shared and traded on by their family and friends. There are no  
11 such reliable tools for policing this activity.

12 For example, one of FINRA, the Financial Industry  
13 Regulatory Authority, one of FINRA's tools is to contact public  
14 companies involved in deals, identify the employees who knew  
15 about the deals and have those employees review a list of names  
16 to see if they recognized any of the names of individuals who  
17 traded around the deal. In this case, David Forte's close  
18 relative, the one who worked at Analog, the acquiring company,  
19 reviewed such a list. The list had Mr. Younis and  
02:16 20 Mr. Manning's names on it, but David Forte's relative did not  
21 identify those names as individuals that he knew.

22 Friends and families' insider trading is worthy of  
23 deterrence. Our Sentencing Memo cites some of the literature  
24 that underscores how public security markets rely on fairness,  
25 transparency and the idea that, when you buy and sell

1 securities, you're not buying and selling securities from  
2 someone who unfairly knows more about the company than you do  
3 because they've received leaked information about the company  
4 that you don't have.

5 That kind of information that David Forte gave his  
6 friends and that Mr. Younis traded on is cheating. It's  
7 securities fraud. It not only cheats the people on the other  
8 side of the trades, but it also undermines the markets that  
9 rely on fairness and trust.

02:17 10 Because of the prevalence of this type of insider  
11 trading and the difficulty in policing it, the government today  
12 asks the Court to consider a sentence that is part home  
13 detention but also part incarcerative. That is consistent with  
14 the guidelines that are especially crafted for deterring  
15 insider trading. For Mr. Younis, this would be a 12 month  
16 sentence, six incarceration, six home detention.

17 I want to briefly address two additional points.  
18 Mr. Younis's Sentencing Memo highlights that he is the longtime  
19 owner of a successful business that employs others and needs to  
02:17 20 be operated whether Mr. Younis is in prison or not. Mr. Younis  
21 is to be applauded for that success, but I would suggest that  
22 given the relatively short sentence that the government is  
23 recommending already, the concerns that are voiced about the  
24 viability of the company's operations, depending on what kind  
25 of sentence is imposed, I would respectfully suggest that

1 they're overstated and that this is especially true in light  
2 of, apparently, Mr. Younis's son's now long-term involvement in  
3 the business.

4 Relatedly, I would respectfully add that Mr. Younis  
5 should be credited for his business success and impact on his  
6 family and community, which are highlighted in the impressive  
7 array of letters that were submitted on his behalf, but he  
8 should not be treated more favorably at sentencing because he  
9 enjoys these advantages in his life, especially when they point  
02:18 10 to an obvious fact. Mr. Younis did not need to cheat other  
11 investors or to cheat the markets to make a quick buck. He  
12 chose to do this. His offense is not a technical violation.

13 For these reasons, the government submits that a  
14 sentence of 12 months is appropriate and no greater than  
15 necessary in light of the sentencing objectives. Because  
16 Mr. Younis has promptly accepted responsibility for his  
17 conduct, the government recommends that half of the term be  
18 satisfied by home detention. The government submits that this  
19 is both a reasonable sentence for this particular defendant and  
02:19 20 one that can help deter others from engaging in similar conduct  
21 in the future.

22 Thank you, your Honor.

23 THE COURT: Thank you. How do you pronounce your last  
24 name?

25 MS. CHUNIAS: Chunias.

1 THE COURT: You may proceed, Ms. Chunias.

2 MS. CHUNIAS: As reflected in our Sentencing Memo,  
3 Mr. Younis is requesting one month of home detention and then  
4 whatever special and mandatory conditions the Court deems  
5 appropriate. As we said, we did not oppose the government's --

6 THE COURT: Do you recommend any underlying supervised  
7 release period or is the one month it?

8 MS. CHUNIAS: The one month is it.

9 THE COURT: No supervised release beyond that?

02:19 10 MS. CHUNIAS: As the Court deems appropriate. We  
11 understand that it's up to the Court's discretion to fashion  
12 what it deems appropriate depending on what the ultimate  
13 sentence is the Court decides to impose. We didn't extrapolate  
14 out what the special conditions should be depending on what  
15 primary sentence the Court decides on.

16 THE COURT: Okay.

17 MS. CHUNIAS: Just as a little bit of context, and I  
18 know that you've reviewed our papers, but Mr. Younis is a  
19 59-year-old husband, father, small business owner and employer.  
02:20 20 He made a grave mistake here for which he was eager to promptly  
21 accept responsibility. He's joined here today by his family  
22 members: His wife Cathy, his children, Christopher, CJ,  
23 Matthew, Julie, and a close family friend Carlan. They've come  
24 in from their various scattered points to be here to support  
25 him. He has no prior criminal history. He fully accepted

1 responsibility.

2 Just as some context, within one month after he was  
3 indicted, Mr. Younis sought out and retained Goodwin Procter.  
4 I assume it was not because we were the most cost effective  
5 attorneys, but this is the most serious thing that has happened  
6 to him and his family. He doesn't have prior experience with  
7 the criminal justice system, but he knew that he wanted counsel  
8 that were going to explore with the government a promptly and  
9 appropriate plea agreement so he could accept responsibility,  
02:21 10 do the right thing, plead guilty, and receive his punishment.

11 As the Court is aware, Mr. Younis's co-defendants, who  
12 the government pointed out were his longtime best friends,  
13 they've taken a different path. They may proceed to trial.  
14 That's not a path -- which is great, but that's not the path  
15 Mr. Younis wanted to pursue. So he instructed us to, as  
16 promptly as possible, negotiate a plea agreement and an  
17 appropriate resolution with the government, which is what he's  
18 done here.

19 As the government alluded to, he simultaneously  
02:22 20 entered into a consent order with the SEC because the conduct  
21 that is at issue here, it also underlies a pending SEC matter.  
22 We've heard both today and in the government's Sentencing Memo  
23 about the offense conduct. We don't dispute any of that.  
24 Mr. Younis pled guilty. He knows that the conduct that formed  
25 the basis for his guilty plea was wrong and should be punished.

1 He wanted to do that very promptly. He doesn't want to prolong  
2 it.

3 Likewise, the personal gain that was attributed to the  
4 offense conduct here was approximately \$52,000. That was  
5 Mr. Younis's personal gain. In pleading guilty to the  
6 government's loss calculation of \$98,000, Mr. Younis, likewise,  
7 agreed that \$98,000 represents all of the proceeds that are  
8 even arguably traced to him. We don't dispute any of that.  
9 Mr. Younis understands that insider trading comes in all shapes  
02:23 10 and sizes and wants to accept full responsibility for that.

11 THE COURT: So your suggestion is a total of \$51,000  
12 as a fine or as a forfeiture or what?

13 MS. CHUNIAS: As forfeiture, consistent with the  
14 government's pending motion, yes.

15 Separately, we expect -- Mr. Younis has entered into a  
16 consent order with the SEC in conjunction, but the SEC is  
17 withholding the remedy portion of that until after the Court  
18 enters its order. We expect that there will be a penalty and  
19 disgorgement in that matter as well for this man of modest  
02:23 20 means.

21 What we don't agree with the government, and it's not  
22 going to surprise you, is the government seems to ignore  
23 Section 3553(a)'s mandate that the sentence that is imposed  
24 here on this individual is sufficient, but not greater than  
25 necessary, to comply with the purposes of sentencing. The



1 government also seems to ignore that this isolated action in  
2 this case, while wrong and something that should be punished,  
3 constituted truly abhorrent behavior for this otherwise  
4 law-abiding citizen, particularly for someone in Mr. Younis's  
5 modest socioeconomic position in life. Being prosecuted or  
6 being indicted and then convicted alone is a very severe  
7 punishment that he will face for the rest of his life, being a  
8 convicted felon as a result of this. That's in and of itself.

9 Finally, what we don't agree with is the government  
02:24 10 seems to ignore that the now advisory guidelines are the  
11 starting place. They're not the finishing place. I mean, the  
12 Supreme Court, as everyone well knows, has been very clear that  
13 sentencing courts should not presume that a sentencing within  
14 the guidelines will necessarily comply with the statutory  
15 purposes of sentencing. So it's not just not mandatory. They  
16 shouldn't even presume to be reasonable. We'd suggest they're  
17 just not reasonable in the case of this individual defendant  
18 here. That's particularly the case, and that individualized  
19 assessment seems particularly appropriate, in the context of  
02:25 20 insider trading cases where the law itself and what we  
21 understand to constitute insider trading has been developed  
22 over time by federal district judges interpreting a statute.

23 Also, as further context with regard to insider  
24 trading, it's important to remember that there's some  
25 references to white collar crime and Mr. Younis's, quote

1 unquote, privilege. He's not a well-connected executive who  
2 had every advantage. He's not somebody who took advantage of  
3 every day citizens. Mr. Younis is an every day citizen. He  
4 is, by definition, blue collar. He has worked at the same  
5 family construction company that was founded by his father and  
6 where he started working at in high school. He now is the  
7 majority owner of that company and is training his son to  
8 follow in his footsteps and eventually take over the business,  
9 but he's not a corporate executive, a hedge fund analyst, or  
02:26 10 even a day trader who manipulated his fiduciary obligations.

11 As the government points out in its memo, but for the  
12 trades that constituted the underlying conduct here, Mr. Younis  
13 was a, quote unquote, infrequent investor. He was a novice.  
14 He made an enormous mistake. He's here. He pled guilty. He  
15 wants to take responsibility for that.

16 To now argue, as we believe the government is, that  
17 because this offense was by every stretch and by every account,  
18 including the numerous individuals who wrote thoughtful letters  
19 in support of his sentencing, it was abhorrent behavior for  
02:27 20 him. And because he's had a modest loving upbringing and  
21 family, built a small family business, that he should somehow  
22 be punished more harshly than others because he was, quote  
23 unquote, privileged is frankly inaccurate, and it's  
24 inconsistent with the goals of sentencing.

25 Mr. Younis understands insider trading comes in all

1 shapes and sizes and he accepts responsibility for his, but the  
2 government has gone after the little guy here. He's the guy  
3 who's out on a construction site every day with his team. He's  
4 the one who is working six days a week when it's seasonally  
5 appropriate. He's working with his son. He has his wife who's  
6 working one day a week handling the office work. That is the  
7 company. It is Mr. Younis, his wife, and his son CJ.

8 He's not a well-connected businessman who can afford  
9 Goodwin Procter, or any law firm for that matter, but this  
02:28 10 matter was so serious and was so significant that he somehow  
11 got to us and he wanted to make sure he treated it with the  
12 utmost importance, that he had a law firm he could work with to  
13 accept responsibility, but this entire experience and his  
14 conviction have already had tremendous emotional, reputational,  
15 punitive, and deterrent impact on him individually and his  
16 family that he'll live with for the rest of his life.

17 The government, in its memo, even points out  
18 Mr. Younis is a nonprofessional, that he wasn't a corporate  
19 insider, wasn't the immediate tipper of the material nonpublic  
02:29 20 information. As the government notes -- and I said, but for  
21 the phrase that formed the basis for this case, he was an  
22 infrequent investor. That's the government's own words.

23 So against this backdrop and particularly in light of  
24 the need to avoid unwanted sentencing disparities, the  
25 government's recommended sentence just far, far exceeds what's

1 sufficient and consistent with the goals of sentencing.

2 On that point with regard to the sentencing  
3 disparities, in the memo the government submitted and today, we  
4 don't see that the government is pointing to another case where  
5 an individual defendant with the nature and circumstances of  
6 their offense was comparable to Mr. Younis and where a  
7 sentencing court has imposed as severe a sentence as what the  
8 government is seeking here. We'd submit that's because there  
9 aren't any.

02:29 10 In our memo, we conducted a survey too. In our memo  
11 at page 19 and 20, I think it is, we set out comparable cases  
12 that we could find, and there's not many. We understand, as  
13 the government said, there is limited prosecution of these kind  
14 of cases, but the sentences that are set forth there, none of  
15 them are comparable to the severe guideline sentence the  
16 government is seeking here in this case. As the government  
17 acknowledges in its memo, there are a limited number of trading  
18 prosecutions in this friends and family insider trading under  
19 circumstances comparable to Mr. Younis's. That's because, for  
02:30 20 one reason or another, they're just not brought.

21 So in such circumstances where the vast majority of  
22 comparable cases by similarly situated individuals are not even  
23 resulting in prosecutions at all, the fact that Mr. Younis is  
24 being convicted and will live with that for the rest of his  
25 life, that in and of itself is severe punishment. That is the

1 general deterrence. And not only this but, as we've talked  
2 about, this man of relatively modest means will pay a  
3 substantial forfeiture amount in this case and he will  
4 presumably pay a separate penalty and disgorgement in the SEC  
5 matter. So against this backdrop, what we have recommended is  
6 an additional term of home detention because that is more than  
7 sufficient in addition to those already punishments to provide  
8 just punishment for his offense.

9 I hear the government's arguments, which seem to be  
02:31 10 there isn't enough of insider trading prosecution in cases like  
11 Mr. Younis's. That shouldn't warrant that Mr. Younis be  
12 treated as the example by imposing any harsher a sentence than  
13 is possible. It's just unjust with the goals of sentencing and  
14 the purposes which, among other things, entrust sentencing  
15 courts to make sure there's not wild sentencing disparities.  
16 If the government believes there's not enough people being  
17 prosecuted for offense conduct under these circumstances, have  
18 at it.

19 The appropriate answer is to not make an appropriate  
02:32 20 outlier of Mr. Younis and an example of him as a general  
21 deterrent. In his individual circumstances and for this type  
22 of offense conduct, which he fully accepts responsibility for,  
23 the conviction alone is a severe punishment, the financial  
24 penalties, and we would submit that the goals of sentencing can  
25 be achieved with an additional period of home confinement.

1 That's particularly the case given his personal circumstances.

2 In our Sentencing Memo, we tried to describe some of  
3 that for the Court. There were a number of thoughtful letters  
4 submitted by people who have known Mr. Younis for decades. It  
5 is also particularly the case in light of the dire situation in  
6 which Mr. Younis's family business would be left in if he is  
7 sentenced to any term of incarceration. As was reflected in  
8 letters, this isn't a hypothetical. This isn't something the  
9 lawyers come up with. It's a very real possibility that  
02:33 10 Priggen Steel will not survive if he's not able to be there  
11 somehow involved day-to-day.

12 I can tell you a little bit more about that, but  
13 Priggen Steel is a family run, third generation business. As I  
14 said, he's been working there since about 1980. It was founded  
15 by his father. He's now the majority owner. His son is a part  
16 owner. He's teaching his son the business. They are, what I  
17 have been taught to understand, a design build firm. So his  
18 son CJ does the computers, and he does the drafting and the  
19 pricing. It's Mr. Younis who runs all of the projects  
02:33 20 day-to-day.

21 This is largely seasonal work. They have ten  
22 employees. Those employees have been with them for 30, 25 and  
23 15 years respectively. These are all laborers. They do  
24 siding. They do steel. But the company has only two  
25 managerial level employees. That's Mr. Younis and his son CJ.

1 So while they've considered over time hiring somebody else,  
2 they simply can't afford it. It's not financially feasible.  
3 It's between Mr. Younis, Mrs. Younis and CJ that they run this  
4 business.

5 Because of the nature of it, they are booked a couple  
6 months ahead with jobs but they're still looking for others.  
7 Right now, for instance, Mr. Younis has jobs running in Rhode  
8 Island, Massachusetts and Connecticut. Often six days a week  
9 he's on those sites. That will be running through the end of  
02:34 10 the year. While they're doing those jobs, they also need to be  
11 bidding for the next ones. That's the nature of their work.  
12 It doesn't provide an opportunity for him to be absent for any  
13 period or for them to just bring on other business managers and  
14 salaries that they may or may not be able to afford more than a  
15 few months out.

16 As CJ explained in his submission to the Court, as  
17 he's learning the business now, he can't run it day-to-day. He  
18 does the design work. He does the pricing work. It's -- he  
19 just doesn't have the knowledge and know-how that his father  
02:35 20 does because he's running three or four projects at any time.  
21 He's on those sites every day. If he's not on those sites, he  
22 and CJ are on the phone 15 times a day so that his father can  
23 tell him, this employee needs to do this, this subcontractor  
24 needs to do that.

25 Without Mr. Younis, all of that work comes to a halt.

1 Jobs will be cancelled. And those ten employees would be,  
2 presumably, out of work. The company has very low overhead.  
3 They don't do advertising, marketing. It's all by word of  
4 mouth. It's all by reputation, including, among their  
5 employees.

6 So you may have noticed that one of the letters that  
7 was submitted in support of Mr. Younis was noting that during  
8 the pandemic in March of 2020, when many businesses were  
9 shutting down, Mr. and Mrs. Younis made the difficult decision  
02:36 10 to keep paying those 10 employees, although they are a small  
11 business, in hopes that those employees could continue  
12 providing for their families, and when jobs started to come  
13 back online, they could come back to work. It would certainly  
14 seem unjust -- it's more than unjust. It would certainly seem  
15 tragic if this small family run business that somehow managed  
16 to weather COVID gets shut down now because Mr. Younis gets  
17 sentenced to any term of incarceration. That just seems  
18 completely inconsistent with the directive of Section 3553(a).

19 THE COURT: It's shut down now?

02:36 20 MS. CHUNIAS: Sorry?

21 THE COURT: You said the business is shut down now?

22 MS. CHUNIAS: If it is. I apologize. It doesn't  
23 appear necessary when there is an alternative, when this Court  
24 could impose Mr. Younis to an alternative to traditional  
25 imprisonment. If he was sentenced to home detention, that



1 would allow him to continue to be involved day-to-day in his  
2 business and keep it afloat.

3 Finally, I would be remiss if I didn't mention COVID,  
4 having had recent experience myself. We are still in the midst  
5 of COVID. I think it's undeniable that any term of  
6 incarceration is more punitive in this current COVID  
7 environment than it was before. For the past few years, the  
8 Court well knows we've seen time and time again that courts  
9 have found that the threat of COVID presented a compelling  
02:37 10 enough reason to release defendants who had far more serious  
11 offense conduct and far more lengthy criminal histories than  
12 Mr. Younis. In light of that, it simply makes no sense and  
13 would be unjust under the circumstances for a few months here,  
14 as the government pointed out, where there's a home detention  
15 alternative that would fully fulfill the same purpose and  
16 goals.

17 THE COURT: Thank you.

18 Mr. Younis, do you wish to say anything before I  
19 impose sentence?

02:38 20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Go right ahead. Just speak right into the  
22 microphone.

23 THE DEFENDANT: Six years ago I showed very poor  
24 judgment. I was wrong. Being in this has been extremely  
25 difficult on my family, my business and my community.

1 THE COURT: Please don't whisper.

2 THE DEFENDANT: I please ask the Court for leniency in  
3 my case. Thank you.

4 THE COURT: Take your time. Are you done? You can  
5 continue if you want to.

6 THE DEFENDANT: No. I just want to keep it short.

7 THE COURT: Okay.

8 THE DEFENDANT: It's been very difficult.

9 THE COURT: Thank you.

02:39 10 There are a bunch of considerations in this case. One  
11 is that the financial markets necessarily depend on straight  
12 trading based on public information, and the defendant knew  
13 that the information he relied on was private information, and  
14 he used it to get a very good return, what turned out to be a  
15 very good deal.

16 As the government points out, insider trading is  
17 particularly difficult to monitor and to detect, so precautions  
18 like this are particularly important to maintain the validity  
19 of this particular kind of market.

02:39 20 However, on the other side, I am totally persuaded  
21 that Mr. Younis is most remorseful and I think highly unlikely  
22 to repeat. I have read the five letters from friends, family,  
23 his son, and I think only one of them, the last one, is an  
24 employee, all of which talk about his high standards, his  
25 generosity and his kindness, and his efficiency in running the

1 office and the effectiveness of running the office.

2 Keeping in mind these opposing issues, I do not  
3 believe that a sentence of imprisonment makes much sense in  
4 this case. I sentence you to a term of Probation for two  
5 years, starting on September 5, because the first 30 days are  
6 to be in home detention. You will need to work out with  
7 Probation the precise times of that and how that will work.  
8 Mr. Mills will explain to you what that means and how it works.  
9 It will be the first 30 days starting on July 5.

02:41 10 The reason I'm doing that is to allow your work to  
11 continue because it's clear that your enterprise is small and  
12 depends heavily on what you do for it, and other people are  
13 relying on that. The only bases for getting out of this home  
14 confinement during this period is to go to work. Again, with  
15 Probation, you will work out the time for that and how that  
16 will be managed and, if necessary, any medical appointments.  
17 Do you go to church regularly?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: So I don't need to worry about church. So  
02:42 20 it's medical and work that you may leave the house for but not  
21 other things. I will not ask for ankle bracelet.

22 PROBATION: You indicated you want to start on July 5.  
23 Being that Mr. Younis resides in Rhode Island, I will have to  
24 contact the Probation Office there.

25 THE COURT: Do you need an ankle bracelet?

1           PROBATION: It's more efficient, otherwise he'll be on  
2 curfew and that will require an officer calling him throughout  
3 the night to see if he's home or not. We'd ask location  
4 monitoring, ankle bracelet. Then they can enter his schedule  
5 for the monitor for his work schedule and any doctor  
6 appointments.

7           THE COURT: Well, if Probation needs that for the  
8 first 30 days, they'll talk to you about this and supply it and  
9 that will be it, but only for 30 days.

02:43 10           There will be a money issue here. I must confess.  
11 I'm somewhat confused by both the plea agreement and various  
12 efforts talking about the money involvement in this case. I  
13 believe that the parties agreed to forfeiture of \$51,725. That  
14 will be part of the judgment, number one.

15           In addition to that, I think since that represents, in  
16 essence, the amount of money he got back having bought the  
17 stock, it cost him nothing effectively except the profit that  
18 he made. So it is appropriate being a money offense to impose  
19 an additional fine. That is \$40,000. That will be called a  
02:44 20 fine in the judgment and is payable forthwith unless you need  
21 time, which I should know about, so that can be recorded in the  
22 Judgment as well.

23           In addition to that, you shall pay a special  
24 assessment of \$200. That is \$100 on each count, which is  
25 mandatory under the statute, and I have nothing to say about

1     that.

2             When we are done, you shall report to your Probation  
3     Officer. Mr. Mills will take care of that. I will not advise  
4     you you have a right to appeal because you have given up your  
5     right to appeal in the plea agreement yourself. So this is no  
6     plea agreement. This is it.

7             Is there anything I have left out?

8             MR. HOLCOMB: No, your Honor.

9             MS. CHUNIAS: No, your Honor.

02:44 10            THE COURT: Mr. Mills?

11            PROBATION: No, your Honor.

12            THE COURT: This is easier than I thought it would be.  
13     Mr. Younis, you shall report to your Probation Officer, who  
14     will also set up with you a table for payment of the \$40,000,  
15     as well as the forfeiture of \$51,000, plus the \$725.

16            Miss Urso already knows this will be part of the  
17     Judgment. She knows exactly how to put it, fit it into the  
18     form.

19            Is there anything else?

02:45 20            MR. HOLCOMB: Thank you. No, your Honor.

21            MS. CHUNIAS: No, your Honor.

22            THE COURT: Thank you all very much. I certainly do  
23     wish you well. Court is in recess.

24            (Adjourned, 2:46 p.m.)

25

## C E R T I F I C A T E

UNITED STATES DISTRICT COURT )  
DISTRICT OF MASSACHUSETTS )

I, Kristin M. Kelley, certify that the foregoing is a  
correct transcript from the record of proceedings taken  
June 29, 2022 in the above-entitled matter to the best of my  
skill and ability.

/s/ Kristin M. Kelley

October 26, 2022

Kristin M. Kelley, RPR, CRR  
Official Court Reporter

Date